



nsw commission for  
children & young people

Mr Jonathan Clark  
Principal Council Officer  
Standing Committee on Law and Justice  
Parliament House  
Macquarie St  
SYDNEY NSW 2000

Dear Mr Clark

I am writing regarding the Law and Justice Committee's *Inquiry into the Prohibition on the Publication of Names of Children Involved in Criminal Proceedings*.

I have attached answers to questions taken on notice during my appearance before the Committee on Monday 18 February. I have also attached a corrected proof of the transcript of that day and answers to your questionnaire.

If you require any further information, please contact Ms Sharyn Jameson, Policy Manager, at [sharyn.jameson@kids.nsw.gov.au](mailto:sharyn.jameson@kids.nsw.gov.au) or on 9286 7205.

Thank you for the opportunity to comment.

Yours sincerely

**Gillian Calvert**  
**Commissioner**  
19 March 2008

**Question:**

The Hon. JOHN AJAKA asked: Do you believe that there are sufficient resources in place for youth conferencing? By that I mean sufficient mediators, councillors and other support staff? Is there ambit for extending or increasing youth conferencing? Do you feel there is a need for that and are resources needed? Is that something for us to give consideration to?

**Response:**

I understand there are around 300 Youth Justice Conference Convenors in NSW and that this is currently sufficient for the arrangement of Youth Justice Conferences throughout NSW.

Conferences can be held for the vast majority of offences commonly committed by children and young people. They are not held for offences that cause the death of a person, sexual assaults, serious drug offences such as possession of large quantities, supply and trafficking, breaches of apprehended violence orders, and traffic offences where the offender is old enough to hold a permit or a licence. I have no reason to support extending conferencing to include more offences at this stage.

I have concerns regarding the availability of services that underpin the success of Youth Justice Conferences. In some areas of NSW there are insufficient local services for children and young people.

Particularly for young people in smaller rural centres, support services such as counselling, alternative education, recreation and drug and alcohol rehabilitation may be too far away to access, or available only on an occasional outreach basis.

If young people are, in practice, unable to access these services, they cannot appropriately be included Youth Conference Outcome agreements. The options available to Conference participants are therefore limited and the young person's rehabilitation may be that much more difficult.

**Question:**

The Hon. JOHN AJAKA asked: Should this Committee be looking at recommendations in relation to further police training or further encouragement to the police in relation to it?

**Response:**

The Department of Juvenile Justice works with the NSW Police Force as the primary partner in the operation of the *Young Offenders Act 1997* (The Act).

Youth Justice Conference managers and Police Youth Liaison Officers jointly deliver specific training to police in all parts of NSW. Successful completion of this training is a prerequisite to their appointment by the Commissioner of Police as a Specialist Youth Officer with the power to make primary decisions about how young offenders are to be dealt with under the Act.

Under the Act, Police may caution young people who have made admissions about their offences. Police already utilise this provision in large numbers. I understand that the Police and the Department of Juvenile Justice have had discussions around increasing the number of Youth Justice Conferences.

Amendments relating to the operation of Police officers under the *Young Offenders Act 1997* were passed in late 2007 and should commence later in 2008. The Committee may wish to look at this matter again following the commencement of these amendments to determine further training needs.

**Question:**

The Hon. JOHN AJAKA asked: Are you concerned that the police may be initially commencing their investigation by simply interviewing one or two young offenders, there is no prohibition on the name going out, the name goes out and then all of a sudden a person is arrested and charged and prohibition applies but, to quote the lovely colloquialism, the horse has bolted?

**Response:**

I am concerned that young people who are questioned by police in relation to an offence may not be protected adequately by the current law. We saw this happen during the disturbances in Redfern and in Cronulla.

In my submission to the Committee, I recommended extending the prohibition in section 11 to include children who have been arrested, but not yet charged. In this way, the prohibition could be strengthened.

**Question:**

The Hon. DAVID CLARKE asked: I think it would help (to put the Committee in touch with Andrew McGrath), and I would prevail on you also to give us a reference to the research that you referred to relating to the brain development: that would be of some considerable use to us as well.

**Response:**

Dr Andrew McGrath has just taken up a new position in the School of Social Sciences and Liberal Studies at Charles Sturt University  
ph: 02 6338 4591, email: [amcgrath@csu.edu.au](mailto:amcgrath@csu.edu.au)

A summary of US Research on brain development and criminal responsibility is provided in Prof. Jeffrey Fagan, *'Adolescents, Maturity and the Law: Why Science and development matter in Juvenile Justice'*, The American Prospect, September 2005.

In Australia, Professor Ian Hickie, of the Brain & Mind Research Institute presented at a Criminal Justice Research Network seminar in 2007:

*The developing brain: implications for the criminal justice system in their encounters with teenagers and young adults*, (),  
[http://www.lawlink.nsw.gov.au/lawlink/executive/ll\\_cjrn.nsf/pages/cjrn\\_seminars](http://www.lawlink.nsw.gov.au/lawlink/executive/ll_cjrn.nsf/pages/cjrn_seminars)